

1 HONORABLE ROBERT S. LASNIK
2
3
4
5
6
7
8

9
10 UNITED STATES DISTRICT COURT
11 WESTERN DISTRICT OF WASHINGTON AT SEATTLE
12
13

14 WENDY MAGUIRE, an individual,
15 Plaintiff,
16 v.
17 ECO SCIENCE SOLUTIONS, INC., a Nevada
18 corporation; GA-DU CORPORATION, a
19 Nevada corporation, and MICHAEL
20 ROUNTREE, an individual; L. JOHN LEWIS,
21 an individual; DON TAYLOR, an individual;
22 JEFFERY TAYLOR; an individual; and JOHN
23 DOE, #1-5, individuals,
24 Defendants.

25 NO. 2:18-CV-01301-RSL
26

PLAINTIFF'S FIRST AMENDED
COMPLAINT

JURY DEMAND

20 Plaintiff Wendy Maguire, through her attorneys of record, Cairncross & Hempelmann,
21 P.S., by way of Complaint against Defendants ECO SCIENCE SOLUTIONS, INC., GA-DU
22 CORPORATION, MICHAEL ROUNTREE, L. JOHN LEWIS, DON TAYLOR, JEFFERY
23 TAYLOR, AND JOHN DOE, #1-5 (collectively, "Defendants"), alleges as follows:

24 **I. PARTIES**

25 1. Plaintiff Wendy Maguire is, and at all times relevant to this Complaint was, a
26 resident of King County, Washington.

PLAINTIFF'S FIRST AMENDED COMPLAINT - 1

CAIRNCROSS & HEMPELMANN, P.S.
ATTORNEYS AT LAW
524 Second Avenue, Suite 500
Seattle, Washington 98104-2323
office 206 587 0700 fax 206 587 2308

2. Defendant Eco Science Solutions, Inc. (“ESSI”) is, and at all times relevant to this Complaint was, a Nevada for profit corporation, with its principal place of business in Hawaii, and actively engaged in and conducting business in Washington.

3. Defendant Ga-Du Corporation (“Ga-Du”) is, and at all times relevant to this Complaint was, a Nevada for profit corporation, with its principal place of business in Salt Lake City, Utah, and actively engaged in and conducting business in Washington.

4. Defendant Michael Rountree is, and at all times relevant to this Complaint was, the Chief Operations Officer (“COO”) of ESSI and oversees operations for ESSI’s subsidiary, Ga-Du. Upon information and belief, Defendant Rountree is a resident of Orange County, California.

5. Defendant L. John Lewis is, and at all times relevant to this Complaint was, the Chief Executive Officer (“CEO”) of ESSI’s subsidiary, Ga-Du. Upon information and belief, Defendant Lewis is a resident of Salt Lake City, Utah.

6. Defendant Don Taylor is, and at all times relevant to this Complaint was, the Chief Financial Officer (“CFO”) of ESSI. Upon information and belief, Don Taylor is a resident of Haiku, Hawaii.

7. Defendant Jeffery Taylor is, and at all times relevant to this Complaint was, the CEO of ESSI. Upon information and belief, Jeffery Taylor is a resident of Haiku, Hawaii.

8. Defendants John Doe, #1-5 are the unidentified corporate officers or agents of Defendants ESSI and/or Ga-Du Corporation who participated in the decision to unlawfully withhold Mrs. Maguire's salary.

II. JURISDICTION & VENUE

9. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question jurisdiction) over the subject matter of Mrs. Maguire's FLSA claim because this claim arises under federal law.

10. This Court has supplemental jurisdiction under 28 U.S.C. § 1337(a) over the subject matter of Mrs. Maguire's state law claims because they arise under the same case or controversy as Mrs. Maguire's federal claim.

11. This Court also has jurisdiction under 28 U.S.C. § 1332 (diversity jurisdiction) over the subject matter of Mrs. Maguire's claims because the Parties are diverse and Mrs. Maguire's claims for damage exceed \$75,000.

12. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391 *et seq.* because the events giving rise to the claims asserted occurred in King County, Washington, which is within the Western District of Washington, at Seattle.

13. Mrs. Maguire respectfully demands a trial by jury for her claims, pursuant to LCR
38(b).

III. FACTS

14. In or about April 2017, Mrs. Maguire co-founded a bank, Ga-Du, with her colleague Andrew Tucker and invited in two additional partners, Defendant L. John Lewis and Dante Jones.

15. Several months later, in June 2017, ESSI acquired Ga-Du, and Ga-Du Corporation became a wholly owned subsidiary of ESSI.

16. As part of that acquisition, ESSI agreed to hire several members of the Ga-Du management team as employees of the new company, including Mrs. Maguire and Mr. Tucker.

1 17. On June 21, 2017, Ga-Du and ESSI executed an Employment Agreement with
2 Mrs. Maguire for Mrs. Maguire to serve as Ga-Du's Vice President of Business Development.

3 18. Pursuant to that Agreement, Maguire would be entitled to an annual salary of
4 \$120,000, in addition to stock options and other benefits.

5 19. Upon information and belief, Defendants knew at the time they offered Mrs.
6 Maguire her Employment Agreement that they would not pay her salary until ESSI or Ga-Du
7 began generating significant revenues. This fact was not disclosed to Mrs. Maguire.

8 20. Between June 2017 and December 2018, Mrs. Maguire worked on behalf of ESSI
9 and Ga-Du to prepare various business plans for Ga-Du, generate business opportunities in the
10 greater Seattle area for both Ga-Du and ESSI, and develop relationships with vendors and
11 investors.

12 21. As of the date of filing this First Amended Complaint, neither ESSI nor Ga-Du
13 have paid Mrs. Maguire her wages and she has not received any portion of her accrued annual
14 salary.

15 22. Mrs. Maguire made several requests to the management members of both ESSI
16 and Ga-Du that she receive her salary, including but not limited to, on one occasion in April
17 2018, in which Mrs. Maguire submitted a written request to Defendant Michael Rountree
18 (ESSI's COO), Gannon Giguere (one of ESSI's owners), and Mr. Tucker, expressing that she
19 would pursue legal action if they continued to withhold her salary.

20 23. Despite Mrs. Maguire's repeated requests for compensation, ESSI and Ga-Du
21 have willfully refused to pay Mrs. Maguire the wages she has earned and is entitled to receive.

1 24. Upon information and belief, ESSI's COO and Ga-Du's CEO, Defendants
2 Michael Rountree and L. John Lewis were the individuals primarily responsible for deciding to
3 withhold Mrs. Maguire's wages.

4 25. Upon information and belief, ESSI's CEO and CFO, Defendants Jeffery Taylor
5 and Don Taylor, also participated in the decision to withhold Mrs. Maguire's wages. According
6 to sworn declarations submitted by both Defendants, signed on September 3, 2019, both Jeffery
7 Taylor and Don Taylor directed Defendant Michael Rountree to deny Mrs. Maguire's requests
8 for payment of her salary.

9
10 26. Upon information and belief, there are other corporate officers or agents of
11 Defendants ESSI and Ga-Du who participated in the decision to withhold Mrs. Maguire's wages.

12 27. On August 15, 2018, Mrs. Maguire, by and through her undersigned counsel,
13 wrote Defendants a Demand Letter, and provided Defendants with an early draft of this subject
14 Complaint, demanding that she be paid her withheld wages and exemplary damages, so as to
15 avoid litigation.

16
17 28. On August 24, 2018, Ga-Du's CEO, Defendant L. John Lewis, responded in
18 writing that ESSI and Ga-Du would not timely pay Mrs. Maguire her wages, and that if Mrs.
19 Maguire proceeded with a lawsuit against ESSI and Ga-Du, that the company would
20 counterclaim against Mrs. Maguire for over \$500,000 on legal claims that plainly lacked legal or
21 factual merit.

22
23 29. Upon information and belief, Defendant Lewis stated these "counterclaims" with
24 the express purpose of intimidating Mrs. Maguire and discouraging her from pursuing her rights
25 under state and federal wage law.

1 30. On August 31, 2018, Mrs. Maguire, by and through her undersigned counsel, filed
2 this subject lawsuit.

3 31. Mrs. Maguire continued to work for ESSI and Ga-Du for several months after
4 filing her Complaint.

5 32. Through October 2018, Mrs. Maguire continued to work for ESSI and Ga-Du.
6 She received instructions from Defendant Jeffery Taylor to continue her business development
7 efforts in Washington and Oregon on behalf of ESSI and Ga-Du.

8 33. However, a few days after receiving that direction, Mrs. Maguire was ejected
9 from her Seattle office.

10 34. Mrs. Maguire asked Defendant Rountree whether she was being terminated.

11 35. Defendants Lewis and Rountree concluded together that they would respond that
12 they were not aware of work Mrs. Maguire had started, and that, because she had filed a lawsuit
13 against the companies for wages, none of the officers should communicate with Mrs. Maguire
14 any further.

15 36. Defendant Rountree emailed Mrs. Maguire indicating that Defendants were
16 unaware of any work she had started.

17 37. Eventually, Defendants stopped responding to Mrs. Maguire's communications
18 altogether.

19 38. Mrs. Maguire attempted to continue performing her job, but having been
20 stonewalled from ESSI's and Ga-Du's entire executive team, and having been removed from her
21 Seattle office, Mrs. Maguire felt she had no alternative but to resign.

22 39. On December 12, 2018, Mrs. Maguire provided Defendants her notice of intent to
23 resign.

PLAINTIFF'S FIRST AMENDED COMPLAINT - 6

CAIRNCROSS & HEMPELMANN, P.S.
ATTORNEYS AT LAW
524 Second Avenue, Suite 500
Seattle, Washington 98104-2323
office 206 587 0700 fax 206 587 2308

1 **IV. FIRST CAUSE OF ACTION**
2 **VIOLATION OF THE FLSA**

3 40. Mrs. Maguire realleges paragraphs 1 through 39 as though fully restated herein.

4 41. Between June 2017 and December 2018, Defendants ESSI, Ga-Du, Michael
5 Rountree, L. John Lewis, Don Taylor, Jeffery Taylor, and John Doe, #1-5, were employers of
6 Mrs. Maguire under the FLSA.

7 42. Defendants agreed in June 2017 to pay Mrs. Maguire \$120,000 a year for her
8 employment as Ga-Du's Vice President of Business Development.

9 43. Defendants failed to pay Mrs. Maguire her wages for her work as an employee.

10 44. Defendants showed reckless disregard for the fact that their failure to pay Mrs.
11 Maguire was in violation of the law.

12 45. Mrs. Maguire has been damaged as a result in an amount to be proven at trial and
13 is also entitled to attorneys' fees and liquidated damages under the law.

14 **V. SECOND CAUSE OF ACTION**
15 **VIOLATION OF WASHINGTON MINIMUM WAGE AND WAGE REBATE ACTS**

16 46. Mrs. Maguire realleges paragraphs 1 through 45 as though fully restated herein.

17 47. Between June 2017 and December 2018, Mrs. Maguire was employed by ESSI
18 and Ga-Du, as defined under RCW chapter 49.46 (the Washington Minimum Wage Act or
20 "MWA") and RCW chapter 49.52 (Washington's Wage Rebate Act).

21 48. Defendants agreed in June 2017 to pay Mrs. Maguire \$120,000 a year for her
22 employment as Ga-Du's Vice President of Business Development.

23 49. Defendants violated RCW 49.46.020 by failing to pay Mrs. Maguire any wages
24 for her work as Ga-Du's Vice President of Business Development between June 2017 and
25 December 2018.

1 50. Defendants violated RCW 49.46.030 by failing to pay Mrs. Maguire all her wages
 2 due at the time of her separation in December 2018.

3 51. Defendants Michael Rountree, L. John Lewis, Don Taylor, Jeffery Taylor, and
 4 John Doe, #1-5 were officers, and/or agents of ESSI and/or Ga-Du and individually participated
 5 in the decision to withhold Mrs. Maguire's wages.
 6

7 52. Defendants' violations of RCW chapters 49.46 and 49.52 were willful and made
 8 with the intent to deprive Mrs. Maguire of wages and thus give rise to exemplary damages under
 9 RCW 49.52.050 and RCW 49.52.070.

10 53. Mrs. Maguire has been damaged as a result in an amount to be proven at trial and
 11 is also entitled to attorneys' fees and exemplary damages under the law.
 12

VI. THIRD CAUSE OF ACTION UNLAWFUL RETALIATION

14 54. Mrs. Maguire realleges paragraphs 1 through 53 as though fully restated herein.

15 55. Mrs. Maguire attempted to exercise her rights under the FLSA and Washington's
 16 Minimum Wage and Wage Rebate Acts in August 2018, by advising ESSI and Ga-Du of her
 17 intention to bring a claim to recover the withheld wages.
 18

19 56. Defendant Lewis retaliated against Mrs. Maguire by attempting to intimidate Mrs.
 20 Maguire with \$500,000 of legally and factually specious "counterclaims," in violation of Section
 21 15(a)(3) of the FLSA and RCW 51.48.025.

22 57. Additionally, Defendants further retaliated against Mrs. Maguire after she filed this
 23 subject lawsuit by ejecting Mrs. Maguire from her Seattle office and purposefully stonewalling
 24 her work, with the purpose of pressuring Mrs. Maguire to resign.
 25

58. As a result of Defendants' retaliatory conduct, Mrs. Maguire was forced to resign and was constructively discharged from her job.

59. As a result of Defendant Lewis's unlawful conduct, Mrs. Maguire has been damaged in an amount to be proven at trial.

VII. FOURTH CAUSE OF ACTION BREACH OF CONTRACT

60. Mrs. Maguire realleges paragraphs 1 through 59 as though fully restated herein.

61. Mrs. Maguire executed an enforceable employment agreement with Ga-Du and its parent company, ESSI, in June 2017.

62. Under the agreement, Ga-Du and ESSI promised to pay Mrs. Maguire an annual salary of \$120,000 in exchange for her employment as Ga-Du's Vice President of Business Development.

63. Ga-Du and ESSI's actions amount to a breach of contract.

64. Mrs. Maguire has been damaged in an amount to be proven at trial.

**VIII. FIFTH CAUSE OF ACTION
IN THE ALTERNATIVE – UNJUST ENRICHMENT**

65. Mrs. Maguire realleges paragraphs 1 through 64 as though fully restated herein.

66. Should the Court deny Mrs. Maguire's other claims for withheld wages and compensation, she is entitled to relief for unjust enrichment/quantum meruit against Defendants ESSI and Ga-Du.

67. ESSI and Ga-Du received a benefit.

68. ESSI and Ga-Du received the benefit at Mrs. Maguire's expense.

69. The circumstances make it unjust for Defendants ESSI and Ga-Du to retain the benefit without payment.

70. Mrs. Maguire has been damaged as a result of ESSI and Ga-Du's receipt of the benefit of her work without compensation in an amount to be proven at trial.

IX. SIXTH CAUSE OF ACTION FRAUDULENT INDUCEMENT

71. Mrs. Maguire realleges paragraphs 1 through 70 as though fully restated herein.

72. Defendants knowingly misrepresented and concealed material facts from Plaintiff regarding their intention to indefinitely withhold Mrs. Maguire's wages, despite their obligations under the Employment Agreement to pay Mrs. Maguire an annual salary.

73. Plaintiff had the right to rely on and justifiably relied upon Defendants' statements that she would earn a steady annual salary as part of ESSI's acquisition of Ga-Du and as a part of her Employment Agreement.

74. But for Defendants' false statements, Plaintiff would have rejected ESSI's proposed acquisition of Ga-Du and the Employment Agreement offered to her.

75. As a direct and proximate result of Defendants' false statements, and in justifiable reliance upon Defendants' false statements, Mrs. Maguire has been damaged in an amount to be proven at trial.

X. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Wendy Maguire prays for relief against Defendants as follows:

1. Enter judgment in favor of Mrs. Maguire, and against Defendants, in an amount to be proven at trial or other hearing;

2. Enter an Order that Defendants' conduct in failing to pay Mrs. Maguire was willful;

3. Award her reasonable attorneys' fees and expenses of litigation;

4. Award her exemplary damages as permitted by law;
5. Award her prejudgment interest;
6. Permit her to amend her First Amended Complaint to conform to proof offered prior to or offered at the time of trial or other hearing; and
7. For such further and additional relief as the Court deems just and equitable.

Dated this 4th day of November, 2019.

CAIRNCROSS & HEMPELMANN, P.S.

s/Rochelle Y. Nelson
Alan D. Schuchman WSBA No. 45979
E-mail: aschuchman@cairncross.com
Rochelle Y. Nelson WSBA No. 48175
E-mail: rnelson@cairncross.com
524 Second Avenue, Suite 500
Seattle, WA 98104-2323
Telephone: (206) 587-0700
Facsimile: (206) 587-2308
Attorneys for Plaintiff Wendy Maguire

PLAINTIFF'S FIRST AMENDED COMPLAINT - 11

CAIRNCROSS & HEMPELMANN, P.S.
ATTORNEYS AT LAW
524 Second Avenue, Suite 500
Seattle, Washington 98104-2323
office 206 587 0700 fax 206 587 2308

1 Certificate of Service
2
3
4
5
6

I, Kelsey M. Doyle, certify under penalty of perjury of the laws of the State of Washington that on November 4, 2019, I electronically filed this document entitled Plaintiff's First Amended Complaint using the CM/ECF system which will send notification of such filing to all attorneys of record.

DATED this 4th day of November, 2019, at Seattle, Washington.

8 s/Kelsey M. Doyle
9 Kelsey M. Doyle, Paralegal
10 CAIRNCROSS & HEMPELMANN, P.S.
11 524 Second Avenue, Suite 500
12 Seattle, WA 98104-2323
13 Telephone: (206) 254-4483
14 Facsimile: (206) 587-2308
15 E-mail: KDoyle@Cairncross.com
16
17
18
19
20
21
22
23
24
25
26

PLAINTIFF'S FIRST AMENDED COMPLAINT - 1

CAIRNCROSS & HEMPELMANN, P.S.
ATTORNEYS AT LAW
524 Second Avenue, Suite 500
Seattle, Washington 98104-2323
office 206 587 0700 fax 206 587 2308